Kite, Robin

From:

Plotkin, Adam

Sent:

Wednesday, March 28, 2007 12:23 PM

To:

Subject:

Kite, Robin Redraft of LRB 2046

Robin, I went over LRB 2046 and have just a couple of small revisions:

- 1. On page 5, after line 20, should there be a point 3. inserted, granting the state inspector the explicit authority to issue citations and assess forfeitures, as outlined on p. 9, line 7?
- 2. On page 6, on line 2, the words "and mechanics" should be inserted after the word "contractors".
- 3. On page 6, on line 4, the words "and contractors" should be deleted after the word "mechanics". Continuing education requirements are only to apply to mechanics, not contractors.
- 4. On page 8, line 15, delete the words "or contractor", following the word "mechanic". (those words appear twice in this line, and both occurrences are to be deleted).
- 5. On page 8, lines 16 and 17, delete the words "or contractor".

If you can, let me know when you might be able to have the redraft done, or if you have any questions.

Thank you! Adam

Adam Plotkin Clerk, Committee on Labor, Elections, and Urban Affairs Office of Senator Spencer Coggs phone, 608-266-2500 fax, 608-282-3546

Called Aaron:
Asked is he really wanted a citation procedure
rather that direct assessment of forfeiture
by the agencyhe will eall me back
Leave as direct forfeiture per Adam - same as 2005 - Act 182
do not wake charge suggested in Hem! above

Kite, Robin

From:

Plotkin, Adam

Sent:

Wednesday, April 04, 2007 10:59 AM

To:

Kite, Robin

Subject:

One (final) change to LRB 2046

Robin, hope you're enjoying the vacation! If possible, can we get one more small change made to the Heat & Frost Regulation draft?

On page 7, line 12, dealing with the requirements for licensing of mechanics, the wording should be changed to: 1. "He or she has successfully completed a

minimum of 160 hours of applicable training approved by the department, in consultation with the council, and has passed a written examination approved by the department."

We're just looking to add a little weight to the training requirement.

Thank you! Adam

Adam Plotkin Clerk, Committee on Labor, Elections, and Urban Affairs Office of Senator Spencer Coggs phone, 608-266-2500 fax, 608-282-3546

Kite, Robin

From:

Plotkin, Adam

Sent:

Wednesday, April 11, 2007 3:46 PM

To:

Kite, Robin

Subject:

RE: One (final) change to LRB 2046

Robin,

See my answers in red below.

Adam

Adam Plotkin
Clerk, Committee on Labor, Elections, and Urban Affairs
Office of Senator Spencer Coggs
phone, 608-266-2500
fax, 608-282-3546

From:

Kite, Robin

Sent:

Tuesday, April 10, 2007 12:06 PM

To:

Plotkin, Adam

Subject:

RE: One (final) change to LRB 2046

Adam:

I have some questions about your redraft instructions:

1. With regard to the 160 hour training requirement, I think that this language needs to be a little more specific. What do you mean by "applicable" training? I don't think this language gives a prospective licensee enough information to know what kind of training is needed to obtain a license. For example, is training something that one can obtain only through coursework? Or can a person obtain training through work experience? We're thinking more of a hands-on experience angle, not so much book work. But we're equally comfortable letting Commerce deal with that in the rules making process if you think it doesn't necessarily need to be in the statutory language.

2. With regard to the requirement that the department consult with the council about training, what would the nature of the consultation be? Given that the hourly requirement will be established, should the department consult with the council on the type of training required? The method for certifying completion of the training? Specifying persons who are qualified to give training?

The answer to all of the above is YES. But again, that is something we'd be comfortable letting happen in the rule making process.

On another issue:

The draft currently provides that the department must promulgate rules establishing licensing fees that are not less that \$250 nor more than \$1,000 for each license period. See s. 101.136 (4) (b), created in the draft. The draft also creates a new provision under s. 101.19, stats. which requires the department to establish fees for the licensing of mechanics and contractors. Under s. 101.19, stats., the fees established by the department must, as closely as possible, equal the cost of providing that licensing. See s. 101.19 (1) (intro.) in current law and s. 101.19 (1) (m), as created in the draft. These provisions in the draft conflict. Do you want to keep the provision that establishes the specific fees or do you want the department to set the fees under s. 101.19?

We'd prefer to keep the range in the bill language and let Commerce specify later. Whatever you need to do in s. 101.19 to not be in conflict with that, go ahead.

Please feel free to give me a call if you want to discuss these issues in more detail.

Robin

From:

Plotkin, Adam

Sent:

Wednesday, April 04, 2007 10:59 AM

To:

Kite, Robin

Subject:

One (final) change to LRB 2046

Robin, hope you're enjoying the vacation! If possible, can we get one more small change made to the Heat & Frost Regulation draft?

On page 7, line 12, dealing with the requirements for licensing of mechanics, the wording should be changed to: 1. "He or she has successfully completed a

minimum of 160 hours of applicable training approved by the department, in consultation with the council, and has passed a written examination approved by the department."

We're just looking to add a little weight to the training requirement.

Thank you! Adam

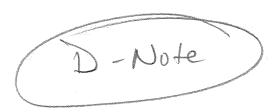
Adam Plotkin Clerk, Committee on Labor, Elections, and Urban Affairs Office of Senator Spencer Coggs phone, 608-266-2500 fax, 608-282-3546



State of Misconsin 2007 - 2008 LEGISLATURE

LRB-2046/EF RNK:jld:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



AN ACT to amend 101.02 (20) (a) and 101.02 (21) (a); and to create 15.157 (15), 101.136 and 101.19 (1) (m) of the statutes; relating to: the licensing and regulation of thermal system insulation and fire-stop product mechanics and contractors; creating a thermal system insulation and fire-stop council; requiring the employment of a state inspector; establishing standards for installing, removing, and maintaining thermal system insulation and fire-stop products; requiring the exercise of rule-making authority; and providing a penalty.

insert analysis

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Analysis by the Legislative Reference Bureau This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. 15.157 (15) of the statutes is created to read:

15.157 (15) Thermal system insulation and fire-stop council. There is created in the department of commerce a thermal system insulation and fire-stop

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1	council consisting of the state thermal system insulation and fire-stop inspector who
2	shall serve as chairperson of the council, the secretary of commerce or his or her
3	designee, and the following members appointed for 3-year terms:
4	(a) Two members who represent a major insulation company.
5	(b) One member who is an architect licensed to do business in this state with
6	work experience in the area of indoor air quality.
7	(c) One member who is an industrial hygienist with work experience in the area
8	of indoor air quality, mold, and fungal growth.
9	(d) Two members who are mechanics with at least 10 years of experience in the
10	area of heat and frost insulation.
11	(e) One member who is an adult resident of this state.
12	Section 2. 101.02 (20) (a) of the statutes, as affected by 2005 Wisconsin Act
13	456, is amended to read:
14	101.02 (20) (a) For purposes of this subsection, "license" means a license,
15	permit or certificate of certification or registration issued by the department under
16	ss. 101.09 (3) (c), 101.122 (2) (c), <u>101.136</u> , 101.143 (2) (g), 101.15 (2) (e), 101.17,
17	101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6),
18	101.82 (2), 101.87, 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4),
19	145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).
20	Section 3. 101.02 (21) (a) of the statutes, as affected by 2005 Wisconsin Act
21	456, is amended to read:
22	101.02 (21) (a) In this subsection, "license" means a license, permit or
23	certificate of certification or registration issued by the department under s. 101.09

 $(3) (c), 101.122 (2) (c), \underline{101.136}, 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a), \underline{101.122} (2) (e), \underline{101.122} (2) (e), \underline{101.136}, \underline{101.143} (2) (g), \underline{101.15} (2) (e), \underline{101.17}, \underline{101.17} (4) (a), \underline{1$

 $101.178\,(2)\,or\,(3)\,(a),\,101.63\,(2),\,101.653,\,101.73\,(5)\,or\,(6),\,101.82\,(2),\,101.87,\,101.935,$

1	101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15
2	145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).
3	SECTION 4. 101.136 of the statutes is created to read:
4	101.136 Regulation of thermal system installation. (1) Definitions. In
5	this section:
6	(a) "Building" means a commercial, industrial, or residential building
7	structure, or facility, as defined by the department by rule, but does not include a
8	residential building, structure, or facility that contains fewer than 4 residentia
9	units.
10	(b) "Contractor" means a person who is engaged in the business of contracting
11	to provide services for installing, removing, or maintaining thermal system
12	insulation and fire-stop products.
13 14	(c) "Council" means the thermal system insulation and fire-stop council.(d) "Fire-stop product" means a product that is used to prevent the spread of
15	fire or smoke and that is installed on or around a pipe, duct, wire, or any other
16	penetration through a floor, ceiling, or wall of a building.
17	(e) "Mechanic" means a person who installs, removes, or maintains thermal
18	system insulation and fire-stop products.
19	(f) "State inspector" means the state thermal system insulation and fire-stop
20	inspector.
21	(g) "Thermal system insulation" means a product that is used to insulate any
22	hot or cold surface including a pipe, duct, valve, boiler, flue, or tank, or equipment
23	on or in a building. "Thermal system insulation" does not include an insulation

product used in the walls of a home or building.

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1	(2) Duties of the thermal system insulation and fire-stop council. (a) The
2	council shall do all of the following:
3	1. Recommend to the department rules establishing standards for the
4	installation, removal, and maintenance of thermal system insulation and fire-stop
5	products in buildings.
6	2. Recommend to the department requirements for the licensure of mechanics
7	and contractors and circumstances under which the department may take
8	disciplinary action against a mechanic or contractor including suspension and
9 .	revocation of a license.
10	3. Recommend to the department qualifications for the state inspector.
(11)	4. Recommend to the department continuing education requirements for
12	mechanics and contractors.
13	(b) The council may consult with engineering authorities and other
14	organizations concerned with safety and health issues related to thermal system
15	insulation and fire-stop products and mold in performing its duties under this
16	subsection.
17	(3) State thermal system insulation and fire-stop inspector. (a) The
18	department shall employ a person who has at least 10 years of experience as a
19	mechanic, and who has successfully completed a 4-year apprenticeship in the trade
20	of heat and frost insulation, as the state thermal system insulation and fire-stop
21	inspector. The state inspector shall work under the direct supervision of the
22	secretary or his or her designee.
23	(b) The state inspector shall do all of the following:

 $1. \ In spect \ buildings \ constructed, or \ in \ which \ the \ mechanical \ systems \ have \ been$

altered, on or after the effective date of this subdivision [revisor inserts date], to

- determine whether the installation, removal, or maintenance of thermal system insulation and fire-stop products in those buildings and structures complies with the standards established by the department under sub. (4) (d). The state inspector shall conduct the inspections on a random bases and whenever requested to do so by a local building inspector.
- 2. Keep complete and accurate records of all inspected buildings including a list identifying all buildings that are in compliance with the standards established by the department under sub. (4) (d), a list of all buildings that are not in compliance with the standards established by the department under sub. (4) (d), and a list of all orders that the state inspector issues under par. (c) 2.
- 3. Give written notice of noncompliance to the owner of every building that the inspector determines does not comply with the standards established by the department under sub. (4) (d).
 - (c) The inspector may do any of the following:
- 1. Enter any building at a reasonable hour for the purpose of inspecting, or gathering information about, any thermal system insulation or fire-stop product.
- 2. Issue an order requiring the owner of a building to make repairs or alterations that the inspector determines are necessary in order for the building to comply with the standards established by the department under sub. (4) (d). The inspector shall issue such an order in writing.
- (4) RULES. The department shall promulgate rules establishing all of the following:
- (a) Requirements for the licensing of mechanics and contractors. The rules shall provide that a license issued to a mechanic or a contractor under this section is valid for 2 years and is renewable.

1	(b) License fees for mechanics and contractors. The rules shall establish fees
(2)	for the licensing of contractors that are not less than \$250 nor more than \$1,000 for
3	each license period.
4	(c) Continuing education requirements for mechanics and contractors.
5	(d) Standards for the installation, removal, and maintenance of thermal
6	system insulation and fire-stop products in buildings.
7	(e) Procedures governing the assessment of forfeitures under sub. (14)
8	including the procedure for issuing an order for an alleged violation of this section,
9	the procedure for contesting an order issued for an alleged violation of this section,
10	and the procedure for contesting the assessment of a forfeiture for an alleged
11	violation of this section.
12	(5) COMPLIANCE WITH INSTALLATION STANDARDS. Every contractor who contracts
13 14	to install, remove, or maintain thermal system insulation or firestop products shall ensure that such installation, removal, and maintenance complies with the
15	standards established by the department under sub. (4) (d).
16	(6) LICENSING OF MECHANICS AND CONTRACTORS. (a) 1. No person may install,
17	remove, or maintain thermal system insulation or fire-stop products in any building
18	unless that person is a mechanic licensed by the department under this section, is
19	working under the direct supervision of a licensed mechanic, or is serving an
20	apprenticeship with a licensed contractor who meets the requirements specified
21	under ch. 106.
22	2. A person wishing to obtain a mechanic's license shall apply for a license by
23	submitting an application on a form provided by the department together with the
24	applicable fee.

insulation.

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1	(b) 1. No person may contract to install, remove, or maintain thermal system
2	insulation or fire-stop products in any building unless that person is a contractor
3	licensed by the department under this subsection.
4	2. A person wishing to obtain a contractor's license shall apply for a license from
5	the department by submitting an application on a form provided by the department
6	together with the applicable fee.
7	(7) REQUIREMENTS FOR LICENSURE OF MECHANICS. (a) Except as provided in par.
8	(b), the department may not issue a license to a mechanic unless the mechanic
9	demonstrates, in a manner satisfactory to the department, that he or she has met the
10	requirements established by the department by rule and either of the following
11	requirements:
12	1. He or she has passed a written examination approved by the department.
13	2. He or she has successfully completed an apprenticeship that meets the
14	requirements specified under ch. 106.
15	(b) The department may waive any requirement, or any portion of a
16	requirement under par. (a) for any person with experience in installing, removing,
17	or maintaining thermal system insulation and fire-stop products upon submission
18	of evidence satisfactory to the department that the person is qualified for licensure.
19	(8) REQUIREMENTS FOR LICENSURE OF CONTRACTORS. The department may not
20	issue a license to a contractor unless the contractor meets all of the following
21	requirements:
22	(a) The contractor is registered with the department of workforce development
23	as a contractor that employs and trains apprentices in the trade of heat and frost

under this section.

1	(b) The contractor is skilled in the planning, superintending, and practical
2	installation of thermal system insulation and fire-stop products.
3	(c) The contractor demonstrates, in a manner satisfactory to the department,
4	that the contractor has met the requirements established by the department by rule.
5	(9) LICENSING EXCEPTION. The department may waive a licensing requirement
6	under sub. (7) (8) for any person who is licensed as a mechanic or contractor
7	in another state in which the standards for licensure are at least as strict as the
8	requirements under subs. (7), (8), and (11).
9	(10) Temporary and emergency licenses. The department may promulgate
10	rules establishing standards and procedures for the issuance of temporary and
11	emergency licenses for mechanics and contractors. The rule shall provide that a
12	temporary or emergency license issued under this subsection is valid for a period of
13	30 days.
14	(1) CONTINUING EDUCATION (The department may not renew a license issued
15	to a mechanic or contractor under this section unless the mechanic or contractor
16	submits a certificate to the department that demonstrates that the mechanic or
(7)	contractor has attended and successfully completed during the previous license
18	period a continuing education course approved by the department, upon consultation
19	with the council.
20	PROHIBITIONS. No person may do any of the following:
21	(a) Make a false statement of material fact in an application for the issuance
22	or renewal of a license under this section.
23	(b) Engage in fraud, misrepresentation, or bribery in order to obtain a license

1	(c) Fail to notify the department or the owner or lessee of any building that the
2	building fails to meet the standards established by the department by rule under
3	sub. (4) (d).
4	sub. (4) (d). PENALTIES. A person who violates this section or who fails to comply with
5	an order issued by the state inspector under this section is subject to a forfeiture of
6	not less than \$2,000 nor more than \$5,000 for each violation.
7	ASSESSMENT OF FORFEITURES BY THE DEPARTMENT. (a) The department may
8	directly assess a forfeiture by issuing an order against any person who violates this
9	section or who fails to comply with an order issued by the state inspector under this
10	section.
11	$(b) \ The \ department \ shall \ remit\ all\ for feitures\ paid\ to\ the\ department\ under\ this$
12	subsection to the secretary of administration for deposit in the school fund.
13	(c) All forfeitures that are not paid to the department as required under this
14	subsection shall accrue interest at the rate of 12 percent per year.
15	(d) The attorney general may bring an action in the name of the state to collect
16	any forfeiture imposed by the department, or interest accrued, if the forfeiture or
17	interest has not been paid after the exhaustion of all administrative and judicial
¹⁸ 🗸	reviews.
19	SECTION 5. 101.19 (1) (m) of the statutes is created to read:
20	101.19(1)(m) The licensing of thermal system insulation and fire-stop product
21	mechanics and contractors under s. 101.136 and the inspection of buildings under
22	s. 101.136.

SECTION 6. Nonstatutory provisions.

1	(1) COUNCIL. Notwithstanding the length of terms of the thermal system
2	insulation and fire-stop council specified in section 15.157 (15) of the statutes, as
3	created by this act, the initial members shall be appointed for the following terms:
4	(a) Two members for a term that expires on July 1, 2009.
5	(b) Two members for a term that expires on July 1, 2010.
6	(c) Three members for a term that expires on July 1, 2011.
7	(2) Position increase. The authorized FTE positions for the department of
8	commerce are increased by 1.0 GPR position to be funded from the appropriation
9	under s. 20.143 (3) (a) of the statutes for the purpose of performing the
10	responsibilities of the state thermal system insulation and fire-stop product
11	inspector.
12	SECTION 7. Effective dates. This act takes effect on first day of the 12th month
13	beginning after publication, except as follows:
[4]	beginning after publication, except as follows: (1) The treatment of sections 15.157 (15), 101.136 (2), (3), and (4), and (10) (12)
15	(1) (n) of the statutes and Section 6 of this act take effect on the day after publication.
16	(END)
	N-DOte

2007-2008 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

INSERT ANALYSIS

The Department of Commerce (Commerce) administers various laws, including building codes, that promote safety in public and private buildings and in the subsystems of those buildings. To that end, Commerce issues various licenses, permits, registrations, and other credentials (licenses) to persons engaged in the construction trades, such as electricians and plumbers. Commerce also administers and issues licenses in connection with the administration of other laws relating to public safety, such as those regulating fireworks and the storage of flammable liquids.

This bill requires Commerce to regulate the business of installing, removing, and maintaining thermal system insulation and fire-stop products (insulation products). The bill defines thermal system insulation as a product used to insulate any hot or cold surface other than an insulation product used in the walls of a building. The bill defines a fire-stop product as a product used to prevent the spread of fire or smoke that is installed on or around a pipe, duct, wire, or other penetration through a floor, ceiling, or wall of a building. The bill requires Commerce to license persons who install, remove, and maintain insulation products (mechanics) and persons who are in the business of contracting to provide services for installing, removing, and maintaining insulation products (contractors). The bill also requires Commerce to employ a state thermal system insulation and fire-stop inspector (state inspector). The bill establishes a thermal system insulation and fire-stop council (council). The council is responsible for recommending rules to Commerce that establish standards for the installation, removal, and maintenance of insulation products. The council must also provide other advise to Commerce including recommending training and continuing education requirements for mechanics.

Under the bill, the state inspector must have at least years of experience as a mechanic and must have successfully completed a four-year apprenticeship in the trade of heat and frost insulation. The state inspector must inspect buildings to determine whether the buildings comply with standards established by Commerce for the installation, removal, and maintenance of insulation products (state standards). The state inspector must also keep complete and accurate records of all inspected buildings and give notice of noncompliance to the owner of every building who fails to comply with state standards. The bill authorizes the state inspector to enter and inspect buildings and to issue orders requiring the owner of a building to make repairs or alterations that are necessary for the building to comply with state standards.

The bill establishes minimum licensing requirements for insulation product mechanics and contractors. Under the bill, a person may not obtain a mechanic's license unless he or she has met requirements established by Commerce by rule and has either completed a minimum level of training and passed a written examination approved by Commerce or has successfully completed an approved apprenticeship program.

The bill specifies that in order to be licensed as a contractor, a person must meet requirements established by Commerce by rule, must be registered with the



Department of Workforce Development as a contractor that employs and trains apprentices, and be skilled in the installation of thermal system insulation and fire-stop products. The bill allows Commerce to waive any licensing requirement for contractors or mechanics for a person who is licensed in another state in which the standards for licensure are at least as strict as the requirements under the bill. It also allows Commerce to waive any licensing requirement for experienced mechanics who submit evidence satisfactory to Commerce that the mechanic is qualified for licensure.

The bill also provides that Commerce may not renew a license issued to a mechanic unless the mechanic completes a continuing education course during the

previous license period that is approved by Commerce.

The bill authorizes Commerce to directly assess a forfeiture by issuing an order against any person who installs, or contracts to install, thermal system insulation or fire-stop products without a license or who fails to comply with an order issued by the state inspector.

For further information see the **state** fiscal estimate, which will be printed as

an appendix to this bill.

(end ins)

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-2046/1dn RNK:رمند

This redraft incorporates the changes you requested. The draft contains a delayed effective date of 12 months that applies to most of the provisions of the draft with the exception of those provisions that require rule making. You may wish to consider providing for a longer delayed effective date because implementation of the licensing requirements under the draft depends on promulgation of rules and it may take the Department of Commerce longer than 12 months to promulgate those rules, especially if the Department of Commerce is required to prepare an economic impact report for the rules under s. 227.137, stats.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite Legislative Attorney Phone: (608) 266-7291

E-mail: robin.kite@legis.wisconsin.gov

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-2046/1dn RNK:jld:jf

April 16, 2007

This redraft incorporates the changes you requested. The draft contains a delayed effective date of 12 months that applies to most of the provisions of the draft with the exception of those provisions that require rule making. You may wish to consider providing for a longer delayed effective date because implementation of the licensing requirements under the draft depends on promulgation of rules and it may take the Department of Commerce longer than 12 months to promulgate those rules, especially if the Department of Commerce is required to prepare an economic impact report for the rules under s. 227.137, stats.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite Legislative Attorney Phone: (608) 266-7291

E-mail: robin.kite@legis.wisconsin.gov

Barman, Mike

From: Sent:

To: Subject:

Plotkin, Adam Friday, May 04, 2007 10:24 AM LRB.Legal Draft Review: LRB 07-2046/1 Topic: Thermal system insulation regulation

Please Jacket LRB 07-2046/1 for the SENATE.